

08/980,394. Should either application be allowed, Applicants will submit a terminal disclaimer under 37 CFR §1.321(c) in a timely manner. In the meantime, Applicants respectfully request that the double-patenting rejection be held in abeyance.

The 35 USC §102 Rejection

Claim 1 stands rejected under 35 USC §102(b) as being unpatentable over **DeBin et al.** (Am. J. Physiol. 264/2, 33-2 (C361-C369), 1993). This rejection is respectfully traversed.

While **DeBin** may teach a composition of chlorotoxin in water, which might be used as a pharmaceutical carrier, **DeBin** does not teach that such a composition can be used in the treatment of gliomas and meningiomas. Instead, **DeBin** teaches the purification of chlorotoxin and that it may be used to block epithelial chloride channels. Glioma and meningioma cells are not epithelial cells, and **DeBin** does not teach that chlorotoxin binds chloride channels in glial or meningioma cells. Thus, the Examiner's arguments notwithstanding, it is not possible that "the property of the specificity to the glioma chloride channel is inherently taught" by **DeBin**.

Furthermore, while **DeBin** teaches that chlorotoxin may be useful for the purification and biophysical probing of chloride channels, **DeBin** does not teach any pharmacological applications of chlorotoxin. **DeBin** especially fails to suggest that chlorotoxin could act as a pharmaceutical or targeting agent for a particular cell type. Therefore, **DeBin** certainly cannot anticipate (nor make obvious for that matter) that chlorotoxin would be useful in the treatment of glial-derived or meningioma-derived tumor cells since neither these cell types nor any pharmaceutical composition directed against such cells are discussed in **DeBin**. To be an anticipatory reference under 35 USC §102(b), the reference must be enabling to the same degree as the instant invention. Therefore, the Applicants respectfully request that the 35 USC §102(b) rejection of claim 1 as anticipated by **DeBin et al.** be withdrawn.

#### The 35 USC §103 Rejection

Claims 1 and 2 stand rejected under 35 USC §103(a) as being unpatentable over **DeBin et al.** in view of **Hammock et al.** (U.S. Patent No: 5,756,340, filed May 8, 1995) further in view of **Hosli et al.** (Exp. Brain Res., 80, 621-625, 1990). This rejection is respectfully traversed.

Claims 2 and 3 were cancelled in the correspondence filed September 22, 1998 in response to the Office Action mailed August 5, 1998. Only claims 1 and 4 remain in prosecution. The Examiner has not given any indication that the claims were renumbered. Therefore, the Applicant assumes that the present rejection applies to claims 1 and 4 rather than 1 and 2.

As discussed in detail above, **DeBin et al.** describes the purification and characterization of a chlorotoxin from the venom of the scorpion. However, **DeBin** fails to teach that chlorotoxin could act as a targeting agent for a particular cell type, let alone glial-derived or meningioma-derived tumor cells which are never discussed in **DeBin**. Therefore, **DeBin** neither anticipates nor makes obvious the method of the instant invention.

**Hammock** teaches the labeling of toxins, including chlorotoxin, for competitive binding assay. However, the toxins of **Hammock** are used for the control of insect pests. **Hammock** does not teach any pharmacological application of such toxins in other animals and certainly does not teach that chlorotoxin binds to glial and meningioma tumor cells. **Hosli** teaches the radiolabeling of chloride toxin channel ligands for receptor characterization, but also does not teach any pharmacological applications of the ligands.

Furthermore, **Hosli** does not even discuss chlorotoxin, let alone its specificity for gliomas and meningioma cells. Therefore, nothing in **Hammock** or **Hosli**, either alone or in combination, alleviates the inability of **DeBin** to make obvious the instant invention. Accordingly, Applicants respectfully request that the 35 USC §103(a) rejection of claims 1 and 2 based on **DeBin et al.** in view of **Hammock et al.** further in view of **Hosli et al.** be withdrawn.

This is intended to be a complete response to the Final Office Action mailed February 1, 2000. If any issues remain outstanding, the Examiner is respectfully requested to telephone the undersigned attorney of record for immediate resolution.

Respectfully submitted,

Date: May 8, 2000

  
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